

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #0X-XXX(E)

DIGEST

Temporarily adds provisions to address NO_x reductions from fossil-fuel-fired electric generating units to address the vacatur of the federal Clean Air Interstate Rule (CAIR). Supersedes 326 IAC 24-1. Authority: IC 4-22-2-37.1(a)(13). Effective upon filing with the Publisher. This emergency rule will not be filed with the Publisher until after a mandate is issued vacating CAIR. Expires ninety (90) days after filing with the Publisher.

This document is entitled Emergency Indiana Clean Air Interstate Rule Replacement (ICAIRR - Annual NO_x). The purpose of this document is to provide for NO_x reductions from fossil-fuel-fired electric generating units substantially equivalent to the NO_x reductions that would have resulted from the application of 326 IAC 24-1 (CAIR NO_x) in calendar year 2009. This document has been filed with the Publisher due to the issuance of a mandate by the D.C. Circuit Court of Appeals vacating the federal CAIR rule, which effectively makes compliance with 326 IAC 24-1 unworkable. IDEM intends to present this emergency rule to the board again extending the rule for two (2) extension periods as allowed under IC 4-22-2-37.1(g). A first notice of rulemaking has been published in the Indiana Register on October 22, 2008 (LSA #08-817) that includes the subject matter of this emergency rule.

SECTION 1. *Applicability.* (a) This document establishes an annual NO_x emissions budget. The following units shall be Indiana clean air interstate rule replacement (ICAIRR) NO_x units, and any source that includes one (1) or more such units shall be an ICAIRR NO_x source, and shall be subject to the requirements of this document, except as provided in subsection (b):

(1) Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not an ICAIRR NO_x unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become an ICAIRR NO_x unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

(b) Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be ICAIRR NO_x units as follows:

(1) Any unit that is an ICAIRR NO_x unit under subsection (a):

(A) qualifying as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) not serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical, supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours, whichever is greater, to any utility power distribution system for sale.

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and meets the requirements of this subdivision for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become an ICAIRR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of clause (B).

(2) Any unit that is an ICAIRR NO_x unit under subsection (a) commencing operation before January 1,

1985:

- (A) qualifying as a solid waste incineration unit; and
- (B) with an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(3) Any unit that is an ICAIRR NO_x unit under subsection (a) commencing operation on or after January 1, 1985:

- (A) qualifying as a solid waste incineration unit; and
- (B) with an average annual fuel consumption of nonfossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become an ICAIRR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

SECTION 2. *Definitions.* For purposes of this document, the definition given for a term in this document shall control in any conflict between 326 IAC 1-2 and this document. In addition to the definitions provided in IC 13-11-2 and 326 IAC 1-2, the following definitions apply throughout this document, unless expressly stated otherwise or unless the context clearly implies otherwise:

- (1) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR Parts 72 through 78*.
- (2) "Alternate ICAIRR designated representative" means, for an ICAIRR NO_x source and each an ICAIRR NO_x unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with SECTION 5 of this document, to act on behalf of the ICAIRR designated representative in matters pertaining to the ICAIRR NO_x program. If the ICAIRR NO_x source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program.
- (3) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under SECTION 8 of this document, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by SECTION 8 of this document.
- (4) "Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.
- (5) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.
- (6) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.
- (7) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.
- (8) "Coal-fired" means combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year.
- (9) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired

combustion turbine:

(A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

(B) producing during the twelve (12) month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:

(i) for a topping-cycle cogeneration unit:

(AA) useful thermal energy not less than five percent (5%) of total energy output; and

(BB) useful power that, when added to one-half (1/2) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and

(ii) for a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input.

(10) "Combustion turbine" means:

(A) an enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

(B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.

(11) "Commence commercial operation" means, with regard to a unit, the following:

(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in SECTION 3 of this document, subject to the following:

(i) For a unit that is an ICAIRR NO_x unit under SECTION 1 of this document on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is an ICAIRR NO_x unit under SECTION 1 of this document on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in SECTION 3 of this document, for a unit that is not an ICAIRR NO_x unit under SECTION 1 of this document on the later of November 15, 1990, or the date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes an ICAIRR NO_x unit under SECTION 1 of this document, subject to the following:

(i) For a unit with a date for commencement of commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in this

clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (A), as appropriate.

(12) "Commence operation" means the following:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber.

(B) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in clause (A), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(C) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in clause (A), such date shall remain the replaced unit's date of commencement, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause or clause (A) or (B).

(13) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.

(14) "Continuous emission monitoring system" or "CEMS" means the equipment required under SECTION 8 of this document to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system (DAHS), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR 75*. The following systems are the principal types of continuous emission monitoring systems required under SECTION 8 of this document:

(A) a flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

(B) a nitrogen oxides concentration monitoring system, consisting of a NO_x pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x emissions, in parts per million (ppm);

(C) a nitrogen oxides emission rate (or NO_x-diluent) monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas (CO₂ or O₂) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x concentration, in parts per million (ppm), diluent gas concentration, in percent CO₂ or O₂, and NO_x emission rate, in pounds per million British thermal units (lb/MMBtu);

(D) a moisture monitoring system, as defined in 40 CFR 75.11(b)(2)* and providing a permanent, continuous record of the stack gas moisture content, in percent H₂O;

(E) a carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂; and

(F) an oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂, in percent O₂.

(15) "Control period" means the period beginning January 1, 2009, or the original effective date of this document, whichever is later, except as provided in SECTION 4(b)(2) of this document, and ending on December 31, 2009, inclusive.

(16) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the ICAIRR designated representative and as determined by the U.S. EPA in accordance with SECTION 8 of this document.

- (17) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.
- (18) "Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.
- (19) "Generator" means a device that produces electricity.
- (20) "ICAIRR designated representative" means, for an ICAIRR NO_x source and each ICAIRR NO_x unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with SECTION 5 of this document, to represent and legally bind each owner and operator in matters pertaining to the ICAIRR NO_x program. If the ICAIRR NO_x source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program.
- (21) "ICAIRR NO_x emissions budget" means for an ICAIRR NO_x source, the assigned tons of allowable NO_x emissions under SECTION 6 of this document for the control period in 2009. If the control period for this document does not start on January 1, 2009, then the emissions budget for each ICAIRR NO_x source shall be prorated.
- (22) "ICAIRR NO_x program" means a nitrogen oxides air pollution control and emission reduction program administered by the department in accordance with this document as a means of mitigating interstate transport of fine particles and nitrogen oxides and reducing emissions of NO_x in Indiana.
- (23) "ICAIRR NO_x source" means a source that is subject to the ICAIRR NO_x annual program.
- (24) "ICAIRR NO_x unit" means a unit that is subject to the ICAIRR NO_x annual program under SECTION 1 of this document.
- (25) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:
- (A) for the life of the unit;
 - (B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or
 - (C) for a period no less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.
- (26) "Monitoring system" means any monitoring system that meets the requirements of SECTION 8 of this document, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75*.
- (27) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) such increased maximum amount as of such completion as specified by the person conducting the physical change.
- (28) "Operator" means any person who operates, controls, or supervises an ICAIRR NO_x unit or an ICAIRR NO_x source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.
- (29) "Owner" means, with regard to an ICAIRR NO_x source or an ICAIRR NO_x unit at a source, respectively, any of the following persons:
- (A) any holder of any portion of the legal or equitable title in an ICAIRR NO_x unit at the source or the ICAIRR NO_x unit;

- (B) any holder of a leasehold interest in an ICAIRR NO_x unit at the source or the ICAIRR NO_x unit; or
 - (C) any purchaser of power from an ICAIRR NO_x unit at the source or the ICAIRR NO_x unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such ICAIRR NO_x unit.
- (30) "Prorated" means, for each ICAIRR NO_x source, the source's 2009 emissions budget under SECTION 6 of this document divided by three hundred sixty-five (365) days, and then multiplied by the number of days in the 2009 control period.
- (31) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22*.
- (32) "Replacement", "replace", or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).
- (33) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one (1) of the following coal-fired technologies at the same source as the coal-fired boiler:
- (A) atmospheric or pressurized fluidized bed combustion;
 - (B) integrated gasification combined cycle;
 - (C) magnetohydrodynamics;
 - (D) direct and indirect coal-fired turbines;
 - (E) integrated gasification fuel cells; or
 - (F) as determined by the U.S. EPA in consultation with the Secretary of Energy, a derivative of one (1) or more of the technologies under clauses (A) through (E) and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.
- (34) "Sequential use of energy" means:
- (A) for a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or
 - (B) for a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.
- (35) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a solid waste incineration unit as defined in the Clean Air Act, Section 129(g)(1).
- (36) "Source" means all buildings, structures, or installations located in one (1) or more contiguous or adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.
- (37) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable rule:
- (A) in person;
 - (B) by United States Postal Service; or
 - (C) by other means of dispatch or transmission and delivery.

Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt by the department or U.S. EPA.

(38) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the ICAIRR NO_x emissions budget, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with SECTION 8 of this document, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.

- (39) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.
- (40) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.
- (41) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.
- (42) "Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.
- (43) "Unit operating day" means a calendar day in which a unit combusts any fuel.
- (44) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.
- (45) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process, which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.
- (46) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:
- (A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;
 - (B) used in a heating application (for example, space heating or domestic hot water heating); or
 - (C) used in a space cooling application (that is, thermal energy used by an absorption chiller).
- (47) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

SECTION 3. *Retired Unit Exemption.* (a) This SECTION applies to any ICAIRR NO_x unit that is permanently retired.

(b) Any ICAIRR NO_x unit that is permanently retired shall be exempt from the ICAIRR NO_x annual program, except for the provisions of this SECTION and SECTIONS 1, 2, 4(b)(3), 5, 6, and 7 of this document.

(c) The exemption under this SECTION shall become effective the day on which the ICAIRR NO_x unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the ICAIRR designated representative shall submit a statement to the department. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).

(D) A unit exempt under this SECTION shall comply with the following provisions:

- (1) The unit shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.
- (2) The department shall maintain the emissions budget under SECTION 6 of this document applicable to the unit as part of the source's emissions budget.
- (3) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department. The owners and operators bear the burden of proof that the unit is permanently retired.
- (4) The owners and operators and, to the extent applicable, the ICAIRR designated representative of the unit shall comply with the requirements of the ICAIRR NO_x program concerning all periods for which

the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(5) A unit exempt under this SECTION shall lose its exemption on the date on which the unit resumes operation.

(6) For the purpose of applying monitoring, reporting, and record keeping requirements under SECTION 8 of this document, a unit that loses its exemption under this SECTION shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

SECTION 4. *Standard Requirements.* (a) The owners and operators, and the ICAIRR designated representative, of each ICAIRR NO_x source and ICAIRR NO_x unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

(1) The monitoring, reporting, and record keeping requirements of SECTION 8 of this document.

(2) The emissions measurements recorded and reported in accordance with SECTION 8 of this document shall be used to determine compliance by each ICAIRR NO_x source with the ICAIRR NO_x emissions budget under subsection (b).

(b) The owners and operators, and the ICAIRR designated representative, of each ICAIRR NO_x source and ICAIRR NO_x unit at the source shall comply with the following nitrogen oxides emission requirements:

(1) The ICAIRR NO_x source shall not emit nitrogen oxides emissions for the control period from all ICAIRR NO_x units at the source in an amount greater than the prorated emissions budget for the source, except as allowed by the compliance flexibility provisions in SECTION 7 of this document.

(2) An ICAIRR NO_x unit shall be subject to the requirements under subdivision (1) starting on the later of the first day of the control period or the deadline for meeting the unit's monitor certification requirements under SECTION 8(c)(1) or 8(c)(2) of this document.

(3) The ICAIRR NO_x emissions budget applicable to the source does not constitute a property right of that source.

(c) The owners and operators of an ICAIRR NO_x source that emits nitrogen oxides during the control period in excess of the ICAIRR NO_x emissions budget without complying with SECTION 7 of this document are subject to enforcement and penalties assessed by the department.

Each ton of such excess emissions shall constitute a separate violation of this SECTION

(d) Owners and operators of each ICAIRR NO_x source and each ICAIRR NO_x unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the ICAIRR NO_x source and each ICAIRR NO_x unit at the source shall keep on site at the source or a central location within Indiana for those owners and operators with unattended sources, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time before the end of five (5) years, in writing by the department, as follows:

(A) The certificate of representation under SECTION 5(h) of this document for the ICAIRR designated representative for the source and each ICAIRR NO_x unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source or a central location within Indiana for those owners and operators with unattended sources beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under SECTION 5(h) of this document changing the ICAIRR designated representative.

(B) All emissions monitoring information, in accordance with SECTION 8 of this document, provided that to the extent that SECTION 8 of this document provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the ICAIRR NO_x annual program.

(2) The ICAIRR designated representative of an ICAIRR NO_x source and each ICAIRR NO_x unit at the

source shall submit the reports required under the ICAIRR NO_x annual program, including those under SECTION 8 of this document and the compliance report under SECTION 7 of this document.

(e) The owners and operators of each ICAIRR NO_x source and each ICAIRR NO_x unit shall be liable as follows:

(1) Each ICAIRR NO_x source and each ICAIRR NO_x unit shall meet the requirements of the ICAIRR NO_x annual program as required by this document.

(2) Any provision of the ICAIRR NO_x annual program that applies to an ICAIRR NO_x source or the ICAIRR designated representative of an ICAIRR NO_x source shall also apply to the owners and operators of such source and of the ICAIRR NO_x units at the source.

(3) Any provision of the ICAIRR NO_x annual program that applies to an ICAIRR NO_x unit or the ICAIRR designated representative of an ICAIRR NO_x unit shall also apply to the owners and operators of such unit.

(f) No provision of the ICAIRR NO_x annual program shall be construed as exempting or excluding the owners and operators, and the ICAIRR designated representative, of an ICAIRR NO_x source or ICAIRR NO_x unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

SECTION 5. *Designated representative for ICAIRR NO_x sources.* (a) Except as provided under subsection (f), each ICAIRR NO_x source, including all ICAIRR NO_x units at the source, shall have one (1) and only one (1) ICAIRR designated representative, with regard to all matters under the ICAIRR NO_x annual program concerning the source or any ICAIRR NO_x unit at the source.

(b) The ICAIRR designated representative of the ICAIRR NO_x source shall be selected by an agreement binding on the owners and operators of the source and all ICAIRR NO_x units at the source and shall act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the department of a complete certificate of representation under subsection (h), the ICAIRR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the ICAIRR NO_x source represented and each ICAIRR NO_x unit at the source in all matters pertaining to the ICAIRR NO_x annual program, notwithstanding any agreement between the ICAIRR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the ICAIRR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) No compliance certification report will be accepted for an ICAIRR NO_x unit at a source, until the department has received a complete certificate of representation under subsection (h) for an ICAIRR designated representative of the source and the ICAIRR NO_x units at the source.

(e) The following shall apply to submissions made under the ICAIRR NO_x annual program:

(1) Each submission under the ICAIRR NO_x annual program shall be submitted, signed, and certified by the ICAIRR designated representative for each ICAIRR NO_x source on behalf of which the submission is made. Each such submission shall include the following certification statement by the ICAIRR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.".

(2) The department will accept or act on a submission made on behalf of owner or operators of an ICAIRR NO_x source or an ICAIRR NO_x unit only if the submission has been made, signed, and certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of an ICAIRR NO_x source choose to

designate an alternate ICAIRR designated representative:

(1) A certificate of representation under subsection (h) may designate one (1) and only one (1) alternate ICAIRR designated representative, who may act on behalf of the ICAIRR designated representative. The agreement by which the alternate ICAIRR designated representative is selected shall include a procedure for authorizing the alternate ICAIRR designated representative to act in lieu of the ICAIRR designated representative.

(2) Upon receipt by the department of a complete certificate of representation under subsection (h), any representation, action, inaction, or submission by the alternate ICAIRR designated representative shall be deemed to be a representation, action, inaction, or submission by the ICAIRR designated representative.

(3) Except in this subsection and subsections (a), (d), (g), (h), and (j), and SECTION 2 of this document, whenever the term "ICAIRR designated representative" is used in this document, the term shall be construed to include the ICAIRR designated representative or any alternate ICAIRR designated representative.

(g) The following shall apply when changing the ICAIRR designated representative, the alternate ICAIRR designated representative, or when there are changes in the owners or operators:

(1) The ICAIRR designated representative may be changed at any time upon receipt by the department of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous ICAIRR designated representative before the time and date when the department receives the superseding certificate of representation shall be binding on the new ICAIRR designated representative and the owners and operators of the ICAIRR NO_x source and the ICAIRR NO_x units at the source.

(2) The alternate ICAIRR designated representative may be changed at any time upon receipt by the department of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate ICAIRR designated representative before the time and date when the department receives the superseding certificate of representation shall be binding on the new alternate ICAIRR designated representative and the owners and operators of the ICAIRR NO_x source and the ICAIRR NO_x units at the source.

(3) Changes in the owner and operators shall be made as follows:

(A) In the event an owner or operator of an ICAIRR NO_x source or an ICAIRR NO_x unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the ICAIRR designated representative and any alternate ICAIRR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.

(B) Within thirty (30) days following any change in the owners and operators of an ICAIRR NO_x source or an ICAIRR NO_x unit, including the addition of a new owner or operator, the ICAIRR designated representative or any alternate ICAIRR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.

(h) A complete certificate of representation for an ICAIRR designated representative or an alternate ICAIRR designated representative shall include the following elements in a format prescribed by the department:

(1) Identification of the ICAIRR NO_x source, and each ICAIRR NO_x unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

(2) The name, address, e-mail address, if any, telephone number, and facsimile transmission number, if any, of the ICAIRR designated representative and any alternate ICAIRR designated representative.

(3) A list of the owners and operators of the ICAIRR NO_x source and of each ICAIRR NO_x unit at the source.

(4) The following certification statement by the ICAIRR designated representative and any alternate ICAIRR designated representative: "I certify that I was selected as the ICAIRR designated representative or alternate ICAIRR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each ICAIRR NO_x unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the ICAIRR NO_x annual program on behalf of the owners and operators of the source and of each ICAIRR NO_x unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions. I certify that the owners and operators of the source and of each ICAIRR NO_x unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, an ICAIRR NO_x unit, or where a utility or industrial customer purchases power from an ICAIRR NO_x unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'ICAIRR designated representative' or 'alternate ICAIRR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each ICAIRR NO_x unit at the source".

(5) The signature of the ICAIRR designated representative and any alternate ICAIRR designated representative and the dates signed.

Unless otherwise required by the department, documents of agreement referred to in the certificate of representation shall not be submitted to the department. The department shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(i) The following shall apply to objections concerning ICAIRR designated representatives:

(1) Once a complete certificate of representation under subsection (h) has been submitted and received, the department will rely on the certificate of representation unless and until a superseding complete certificate of representation under subsection (h) is received by the department.

(2) Except as provided in subsection (g)(1) or (g)(2), no objection or other communication submitted to the department concerning the authorization, or any representation, action, inaction, or submission, of the ICAIRR designated representative shall affect any representation, action, inaction, or submission of the ICAIRR designated representative or the finality of any decision or order by the department under the ICAIRR NO_x annual program.

(3) The department will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any ICAIRR designated representative, including private legal disputes concerning the proceeds of ICAIRR NO_x emission budget transfers.

SECTION 6. *Emissions Budget.* (a) The total Indiana ICAIRR NO_x emissions budget for the following Indiana ICAIRR NO_x sources is one hundred twenty-nine thousand ninety (129,090) tons in 2009.

(b) Upon the original effective date of this document, the following source-wide nitrogen oxides (NO_x) emissions budgets shall be in effect for the ICAIRR NO_x control period of 2009, in tons:

<u>Source</u>	<u>Source-wide 2009 NO_x Emissions Budget (tons)</u>
AEP-I&M - Rockport	17,752
AEP-I&M - Tanners Creek	5,633
Duke Energy - Cayuga	6,422
Duke Energy - Connersville	10
Duke Energy - Edwardsport	704
Duke Energy - Gallagher	3,127

Duke Energy - Gibson	20,561
Duke Energy - Henry County	57
Duke Energy - Noblesville	637
Duke Energy - Wabash River	5,242
Duke Energy - Wheatland	71
Duke Energy - Vermillion Energy	62
DPL Energy LLC - Montpelier	54
Hoosier Energy - Frank E Ratts	1,696
Hoosier Energy - Lawrence Generating Station	86
Hoosier Energy - Merom	7,813
Hoosier Energy - Worthington	59
IKEC - Clifty Creek	8,173
IMPA - Anderson	10
IMPA - Richmond	9
IPL/AES - Harding Street	3,816
IPL/AES - Georgetown	37
IPL/AES - Eagle Valley	1,555
IPL/AES - Petersburg	12,384
NIPSCO - Sugar Creek	197
NIPSCO - Bailly	3,238
NIPSCO - Dean H Mitchell	2,193
NIPSCO - Michigan City	2,768
NIPSCO - Schahfer	11,299
PSEG - Lawrenceburg	73
RPL - Whitewater Valley	721
SIGECO - A B Brown	3,297
SIGECO - Broadway	19
SIGECO - F B Culley	3,076
SIGECO/ALCOA - Warrick	2,505

Dominion - Stateline 3,036

Whiting Clean Energy, Inc. - Whiting Clean Energy 698

(b) The source-wide emissions budgets represent the allowable NO_x emissions, in tons, for each ICAIRR NO_x source for the control period in 2009, except as provided in the flexibility provisions in SECTION 7 of this document.

(c) If the control period for this document does not start on January 1, 2009, then the emissions budget for each ICAIRR NO_x source shall be prorated.

SECTION 7. Compliance. (a) Within ninety (90) days of the original effective date of this document, each ICAIRR NO_x source listed in SECTION 6 of this document shall submit to the department a compliance plan under subsection (b) demonstrating how the source will achieve the source's 2009 emissions budget or submit a request for a compliance agreement under subsection (e). If the control period for this document does not start on January 1, 2009, then the budget for each ICAIRR NO_x source shall be prorated. Certification by the source of compliance with the emissions budget will not occur until after the end of the control period with compliance reports due March 1, 2010.

(b) The compliance plan shall contain the following:

- (1) Identification of the source.
- (2) A list of affected units at the source.
- (3) Projected emissions for 2009, including the method of estimation and applicable budget.
- (4) List of compliance measures selected to meet the 2009 emissions budget. Suggested compliance measures are, but not limited to, the following:

- (A) Operate the existing NO_x controls such as selective catalytic reduction (SCR) and selective non-catalytic reduction (SNCR) devices.
- (B) Enhance the effectiveness of existing NO_x controls.
- (C) Use of low NO_x emitting fuel.
- (D) Install retrofit NO_x controls.
- (E) Repower one or more unit.
- (F) Retire units.
- (G) Use of the flexibility provisions in subsection (d).

(5) A demonstration along with calculations that the measures selected will meet the budget.

(6) The plan must contain a certification, signed by the ICAIRR designated representative, certifying either or both of the following:

- (A) Equipment installed to reduce NO_x emissions has been put into operation or will remain in operation as necessary to meet that source's 2009 emissions budget; or,
- (B) The ICAIRR NO_x source is taking steps necessary to timely implement one or more of the flexibility provisions listed in this SECTION as selected in the accompanying compliance plan.

(c) Within ninety (90) days of compliance plan submittal the department shall approve the plan or notify the source that additional data or information is needed for completeness and accuracy. The department shall allow the source reasonable time to provide the requested information. Within one hundred fifty (150) days after initial submittal of the compliance plan must be completed and all issues resolved prior to approval by the department.

(d) ICAIRR NO_x sources can use flexibility provisions as follows to show compliance:

- (1) Intrastate emissions averaging for sources operated under common ownership.
- (2) ICAIRR NO_x sources may use emission reduction trade-offs generated through agreements with sources in other states or with other sources not under common ownership in Indiana as follows:

- (A) The ICAIRR NO_x source has entered into an agreement with another source identified in Appendix A to use credits that correlate to tons of NO_x reduced at that source at a one (1) to one (1) ratio to meet the emissions budget in SECTION 6 of this document.

(B) A certification statement, to be included in a compliance report to be due March 1, 2010, must be provided to ensure reductions attained elsewhere are:

- (i) realized in conjunction with a baseline as specified in clauses (D) and (E); and
- (ii) not necessary to comply with any federal or state emissions limitation applicable during 2009 that contain restrictions on those credits being traded.

(C) Credits determined to be invalid cannot be used to achieve compliance with the ICAIRR NO_x source emissions budget, regardless of the source's good-faith belief that the credits were valid.

(D) Credits available for emission reduction trade-offs with other ICAIRR NO_x sources in Indiana shall be calculated as the difference between the source's ICAIRR NO_x emissions budget in SECTION 6 of this document minus the source's 2009 NO_x emissions as determined by SECTION 8 of this document. The difference, in tons of NO_x, can be used as credits if the ICAIRR NO_x emissions budget is greater than the total ICAIRR NO_x emissions for all ICAIRR NO_x units at the ICAIRR NO_x source.

(E) Credits available for emission reduction trade-offs with sources not located in Indiana identified in Appendix A shall be calculated as the ICAIRR Initial Baseline in Appendix A for the applicable source minus the source's 2009 NO_x emissions as determined by SECTION 8 of this document for each unit at the source. The difference, in tons of NO_x, can be used as credits if the ICAIRR NO_x emissions budget is greater than the total ICAIRR NO_x emissions for all ICAIRR NO_x units at the ICAIRR NO_x source.

(e) If an ICAIRR NO_x source is unable to demonstrate that the source can achieve compliance with their 2009 emissions budget the source may request to enter into a compliance agreement with the department. The compliance agreement shall specify how the source will demonstrate that future NO_x reductions averaged over a multi-year time frame will compensate for NO_x reductions needed in 2009. The compliance agreement must be used by sources planning to achieve compliance by installing controls in the future or planning to shut down and retire a unit; or other sources that determine that they will not be able to meet the 2009 emissions budget using available flexibility provisions. The compliance agreement must be in effect by March 1, 2010.

SECTION 8. *NO_x monitoring and reporting requirements.* (a) The owners and operators, and to the extent applicable, the ICAIRR designated representative, of an ICAIRR unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this document and in 40 CFR 75, Subpart H*. For purposes of complying with such requirements, the definitions in SECTION 2 of this document and 40 CFR 72.2* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75* shall be replaced by the terms ICAIRR NO_x unit, ICAIRR designated representative, and continuous emission monitoring system (CEMS) respectively, as defined in SECTION 2 of this document. The owner or operator of a unit that is not an ICAIRR NO_x unit but that is monitored under 40 CFR 75.72(b)(2)(ii)* shall comply with the same monitoring, record keeping, and reporting requirements as an ICAIRR NO_x unit.

(b) The owner or operator of each ICAIRR NO_x unit shall do the following:

(1) Install all monitoring systems required under this SECTION for monitoring NO_x mass emissions and individual unit heat input. This includes all systems required to monitor NO_x emission rate, NO_x concentration, stack gas moisture content, stack gas flow rate, CO₂ or O₂ concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.71* and 40 CFR 75.72*.

(2) Successfully complete all certification tests required under subsections (f) through (j) and meet all other requirements of this SECTION and 40 CFR 75* applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (p), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b)(1) and (b)(2) on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

- (1) For the owner or operator of an ICAIRR NO_x unit that commences commercial operation before July 1, 2007, by the effective date of this document.**
- (2) For the owner or operator of an ICAIRR NO_x unit that commences commercial operation on or after July 1, 2007, by the later of the following dates:**
 - (A) The effective date of this document.**
 - (B) The earlier of:**
 - (i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation; or**
 - (ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.**
- (3) For the owner or operator of an ICAIRR NO_x unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the applicable deadline under subdivision (1) or (2), compliance by the earlier of:**
 - (A) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or**
 - (B) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.**
- (d) The owner or operator of an ICAIRR NO_x unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for NO_x concentration, NO_x emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_x mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or 40 CFR 75.31(c)(3)*, 40 CFR 75, Appendix D, Section 2.4*, or 40 CFR 75, Appendix E, Section 2.5*, as applicable.**
- (e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this document:**
 - (1) No owner or operator of an ICAIRR NO_x unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this SECTION without having obtained prior written approval in accordance with subsection (o).**
 - (2) No owner or operator of an ICAIRR NO_x unit shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this SECTION and 40 CFR 75*.**
 - (3) No owner or operator of an ICAIRR NO_x unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this SECTION and 40 CFR 75*.**
 - (4) No owner or operator of an ICAIRR NO_x unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this SECTION, except under any one (1) of the following circumstances:**
 - (A) During the period that the unit is covered by an exemption under SECTION 3 of this document.**
 - (B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this SECTION and 40 CFR 75*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.**
 - (C) The ICAIRR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).**
- (f) The owner or operator of an ICAIRR NO_x unit shall be exempt from the initial certification requirements of this subsection and subsections (g) through (j) for a monitoring system under subsection (b)(1)**

if the following conditions are met:

- (1) The monitoring system has been previously certified in accordance with 40 CFR 75*.
- (2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21*, 40 CFR 75, Appendix B*, 40 CFR 75, Appendix D*, and 40 CFR 75, Appendix E* are fully met for the certified monitoring system described in subdivision (1).

The recertification provisions of this subsection and subsections (g) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(g) If the U.S. EPA has previously approved a petition under 40 CFR 75.17(a)* or 40 CFR 75.17(a)(b)* for apportioning the NO_x emission rate measured in a common stack or a petition under 40 CFR 75.66* for an alternative to a requirement in 40 CFR 75.12* or 40 CFR 75.17*, the ICAIRR designated representative shall resubmit the petition to the department to determine whether the approval applies under the ICAIRR NO_x annual program.

(h) Except as provided in subsection (f), the owner or operator of an ICAIRR NO_x unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (that is, a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendix D* and 40 CFR 75, Appendix E*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall comply with the procedures in subsection (i) or (j) respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this SECTION in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21* or 40 CFR 75, Appendix B*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)*. Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NO_x monitoring system under 40 CFR 75, Appendix E*, under subsection (b)(1) are subject to the recertification requirements in 40 CFR 75.20(g)(6)*.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5)* and 40 CFR 75.20(g)(7)* in lieu of the procedures in clause (E) of this subdivision. Requirements for the certification approval process for initial certification and recertification, and loss of certification are as follows:

(A) The ICAIRR designated representative shall submit to the department, the U.S. EPA Region V, and the U.S. EPA written notice of the dates of certification testing, in accordance with subsection (m).

(B) The ICAIRR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)*. A provisionally certified monitoring system may be used under the ICAIRR NO_x annual program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75*, shall be considered valid quality-assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75* and is included in the certification application shall be deemed certified for use under the ICAIRR NO_x annual program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the ICAIRR designated representative must submit the additional information required to complete the certification application. If the ICAIRR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred twenty (120) day review period shall not begin before receipt of a complete certification application.

(iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.

(E) If the department or the U.S. EPA issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

(i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)*, 40 CFR 75.20(g)(7)*, or 40 CFR 75.21(e)* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i)* or 40 CFR 75.20(g)(7)*:

(AA) For a disapproved NO_x emission rate, NO_x-diluent, system, the maximum potential NO_x emission rate, as defined in 40 CFR 72.2*.

(BB) For a disapproved NO_x pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO_x and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A,

Sections 2.1.2.1 and 2.1.4.1*.

(CC) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO₂ concentration or the minimum potential O₂ concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2*.

(DD) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in 40 CFR 75, Appendix D, Section 2.4.2.1*.

(EE) For a disapproved excepted NO_x monitoring system under 40 CFR 75, Appendix E*, the fuel-specific maximum potential NO_x emission rate, as defined in 40 CFR 72.2*.

(ii) The ICAIRR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the U.S. EPA's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(i) The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19* shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2)* and 40 CFR 75.20(h)*. If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g)*.

(j) The ICAIRR designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the U.S. EPA and, if applicable, the department under 40 CFR 75, Subpart E* shall comply with the applicable notification and application procedures of 40 CFR 75.20(f)*.

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75*, data shall be substituted using the applicable missing data procedures in 40 CFR, Subpart D*, 40 CFR 75, Subpart H*, 40 CFR 75, Appendix D*, or 40 CFR 75, Appendix E*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (f) through (j) or the applicable provisions of 40 CFR 75*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department or the U.S. EPA will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department or the U.S. EPA revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (f) through (j) for each disapproved monitoring system.

(m) The ICAIRR designated representative for an ICAIRR NO_x unit shall submit written notice to the department and the U.S. EPA in accordance with 40 CFR 75.61*.

(n) The ICAIRR designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements under 40 CFR 75.73*, and the requirements of SECTION 5(e)(1) of this document as follows:

(1) The owner or operator of an ICAIRR NO_x unit shall comply with requirements of 40 CFR 75.73(c)* and 40 CFR 75.73(e)*.

(2) The ICAIRR designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections

(f) through (j), including the information required under 40 CFR 75.63*.

(3) The ICAIRR designated representative shall submit quarterly reports as follows:

(A) The ICAIRR designated representative shall report the NO_x mass emissions data and heat input data for the ICAIRR NO_x unit, in an electronic quarterly report in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2007, the calendar quarter covering January 1, 2009 through March 31, 2009; or the calendar quarter covering the effective date of this document; whichever is later; and

(ii) for a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009, through March 31, 2009;

(B) The ICAIRR designated representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.73(f)*.

(C) For ICAIRR NO_x units that are also subject to an acid rain emissions limitation or the quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through H* as applicable, in addition to the NO_x mass emission data, heat input data, and other information required by this SECTION.

(4) The ICAIRR designated representative shall submit to the U.S. EPA a compliance certification, in a format prescribed by the U.S. EPA in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

(A) the monitoring data submitted were recorded in accordance with the applicable requirements of this SECTION and 40 CFR 75*, including the quality assurance procedures and specifications; and

(B) for a unit with add-on NO_x emission controls and for all hours where NO_x data are substituted in accordance with 40 CFR 75.34(a)(1)*, the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under 40 CFR 75, Appendix B* and the substitute data values do not systematically underestimate NO_x emissions.

(o) A petition requesting approval of alternatives to any requirement of this SECTION may be made as follows:

(1) Except as provided in subdivision (3), the ICAIRR designated representative of an ICAIRR NO_x unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the U.S. EPA requesting approval to apply an alternative to any requirement of this SECTION. Application of an alternative to any requirement of this SECTION is in accordance with this SECTION only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.

(2) The ICAIRR designated representative of an ICAIRR NO_x unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this SECTION. Application of an alternative to any requirement of this SECTION is in accordance with this SECTION only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(3) The ICAIRR designated representative of an ICAIRR NO_x unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72*. Application of an alternative to any such requirement is in accordance with this SECTION only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(p) The owner or operator of an ICAIRR NO_x unit is subject to the applicable provisions of 40 CFR 75*

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concerning units in long term cold storage.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.**

SECTION 9. This document expires ninety (90) days after filing with the Publisher.